

UNITED STATES DISTRICT COURT

WESTERN

District of

WASHINGTON

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

(For Organizational Defendants)

ALPHA TECHNOLOGIES, INC. (ATI)

CASE NUMBER: CR04-173-JCC-001

ROBERT McCALLUM

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) 1 of the Information (Plea Date: April 13, 2004)

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the organizational defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Concluded	Count Number(s)
26 U.S.C. § 7206(2)	Aiding and Assisting the Preparation/Presentation of a False Income Tax Return	9/15/97	1

The defendant organization is sentenced as provided in pages 2 through _____ of this judgment.

☐ The defendant organization has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

IT IS ORDERED that the defendant organization shall notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization shall notify the court and United States attorney of any material change in the organization's economic circumstances.

Defendant Organization's
Federal Employer I.D. EIN #91-1149989

Defendant Organization's Principal Business Address:

3767 ALPHA WAY

BELLINGHAM, WA 98226

Defendant Organization's Mailing Address:

SAME



04-CR-00173-OBJ

ROBERT WESTINGHOUSE

Signature of Assistant United States Attorney

JUNE 25, 2004

Date of Imposition of Judgment

Signature of Judicial Officer

JOHN C. COUGHENOUR, United States District Judge

Name and Title of Judicial Officer

June 25, 2004

DEFENDANT ORGANIZATION: ALPHA TECHNOLOGIES, INC.
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PROBATION

The defendant organization is hereby sentenced to probation for a term of One (1) year

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant organization pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant organization shall comply with the standard and additional terms of probation as set forth on the attached pages.

DEFENDANT ORGANIZATION: ALPHA TECHNOLOGIES, INC.
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STANDARD AND ADDITIONAL PROBATION TERMS

1. The defendant organization is placed on probation for a period of one (1) year, pursuant to USSG Sections 8D1.1 and 8D1.2.
2. Within 30 days from the date of judgment, the defendant shall designate an officer to act as its representative and to be the primary contact with the U.S. Probation Officer.
3. The defendant shall answer truthfully all inquiries by the U.S. Probation Officer and follow the instructions of the U.S. Probation Officer.
4. The defendant shall notify the U.S. Probation Officer 10 days prior to any change in principal business or mailing address.
5. The defendant shall permit a U.S. Probation Officer to visit any of its operating business sites.
6. The defendant shall notify the U.S. Probation Officer within 72 hours of any criminal prosecution, major civil litigation, or administrative proceeding against it.
7. The defendant shall not dissolve, change its name or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by the court are either fully satisfied or are equally enforceable against ATI's successors and assigns.
8. The defendant shall not waste, nor without permission of the U.S. Probation Officer, sell, assign or transfer its assets unless this judgment and all criminal monetary penalties imposed by this Court are fully satisfied.
9. The organization shall commit no further tax offenses, nor aid and assist any other individual or business entity in the commission of any further tax offenses, including any offense involving the improper claim of a deduction from income of any amount of commission when the commission or a portion thereof is transferred to a foreign bank account or to a foreign business entity or to an individual in a foreign country for any purpose other than to pay ordinary and necessary business expenses incurred by Defendant ATI. Nothing herein shall prohibit the United States from proceeding administratively, civilly, or criminally against ATI in any separate proceeding for any such alleged tax offense involving any subsequent tax period.
10. The defendant shall provide on an annual basis an accounting to the U.S. Probation Office of all transfers of funds to and from foreign bank accounts; and to and from foreign business entities; and to and from all individuals in foreign countries in which it is a participant or where such transfers are undertaken at its direction or on its behalf. The defendant will, if requested by U.S. Probation Office, provide the transfer documents showing the source of and the recipient of, including originating and receiving banks, all international transfers of funds, and all documents relating to the reasons for the transfers.
11. The defendant corporation shall form a tax and accounting staff separate and apart from Defendant GBE
12. The defendant corporation shall engage an independent CPA firm not previously associated with the preparation of its income tax returns to prepare ATI's income tax returns.
14. The defendant shall pay a fine of \$500,000.00 as to Count 1, which shall be due immediately.

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CRIMINAL MONETARY PENALTIES

The defendant organization shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$ 500,000.00	\$ -0-

☐ The determination of restitution is deferred until
An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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TOTALS \$ _____ \$ _____

☐ If applicable, restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant organization shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine and/or ☐ restitution.

☐ the interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

X PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid:

- ☐ During the period of imprisonment, pursuant to the Bureau of Prison's Inmate Financial Responsibility Program.
- ☐ During the period of supervised release, in monthly installments amounting to not less than _____% of the defendant's gross monthly household income, to commence 30 days after the release from imprisonment.
- ☐ During the period of probation, in monthly installments amounting to not less than _____% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

X Special instructions regarding the payment of criminal monetary penalties:

MAKE CHECK(S) FOR ALL CRIMINAL MONETARY PENALTIES, INCLUDING SPECIAL ASSESSMENTS, AND FINES, PAYABLE TO:

United States District Court Clerk, Western District of Washington.

1. The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible.

2. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

All criminal monetary penalties are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.